

include no new matter.

The Examiner has rejected claims 1-5 taking the position that there is no evidence as to what diseases are encompassed by the term “Th2-dominated diseases and pathogenic Th2-response”. Based on this, the Examiner takes the position that the metes and bounds cannot be determined.

As evidence to support Applicant’s position, Applicant requests that the Examiner consider the following articles:

T-cell subsets (Th1 versus Th2) this article indicates that the term “Th2-dominated response” is used as a common definition. The Examiner is requested to refer interalia to the highlighted passages.

An antagonistic IL-4 mutant prevents Type I allergy in the mouse... this article provides evidence that term TH2 dominated diseases is commonly used and is understood in the art. Of particular importance is the passage with the sentence “IL-4 has a central role in Th2 dominated diseases...”.

Development of Th1 or Th2 dominated immuno responses: what about the polarizing signals this article indicates that Th2 dominated diseases is a term which is used and understood in the art. The Examiner is requested to consider the title as well as the highlighted part of the abstract.

Applicant notes that the term “Th2-dominated immune response” appears in many issued U.S. patents. Applicant is attaching a copy of U.S. Patent 6,086,898. The Examiner is requested to consider the terms of interest which are highlighted.

Several other U.S. patents use the terms "Th2 dominated response" or equivalent.

These include:

6,323,334
6,288,218
6,204,371
6,190,909
6,156,887
6,084,083
6,066,498
6,066,322
5,721,351

The front pages of these patents with the Abstract are attached hereto for consideration by the Examiner. If full copies of the references are required the Examiner is requested to telephone Applicant's attorney or to consider the passages of interest from an electronic source. Applicant requests that the Examiner reconsider the rejection based on 35 U.S.C. §112 second paragraph.

The Examiner has also rejected claims 1-5 under the judicially created doctrine of obviousness-type double patenting.


Applicant again requests that the Examiner reconsider this rejection. The prior patented invention, the patent itself, does not suggest the present invention absent teachings from the secondary reference. As such, what is essentially a non-prior art publication (in this regard Applicant is willing to submit a Declaration under 37 C.F.R. 1.131 to show that the invention was made prior to the publication of the secondary reference in combination with 5,952,296 does not suggest the invention. Further, it is Applicant's position that the secondary reference does not establish the inherency of the claimed subject matter in the original disclosure of U.S.

5,952,296. Should the Examiner determine after reconsideration that the obviousness-type double patenting rejection is proper, the Examiner is requested to telephone Applicant's attorney such that a terminal disclaimer can be discussed.

Favorable consideration on the merits is requested.

Respectfully submitted
for Applicant,

By: _____


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Enclosures: Computer Readable Form (CRF)
Paper Copy Sequence
3 Referenced Articles
U.S. Patent 6,086,898
Copies of First Pages of (9) Patents

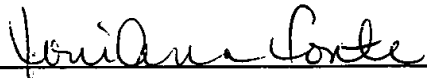
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SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 13-0410.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS EXPRESS MAIL IN AN ENVELOPE ADDRESSED TO: COMMISSIONER OF PATENTS AND TRADEMARKS, WASHINGTON, D.C. 20231, NO.: EV071197615US

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BY: _____



DATE: April 1, 2002